

## ENCORE RECORDING SERVICE

### Service

Encore is Telecom's recording service, offered as either CD or as a server-based digital recording and playback service. The service enables a Telecom Audio Conference convenor to record a conference including any interactive conversations between the participants. With respect to the server recording, the conference is stored on the server for the period of time determined by the convenor and agreed with Telecom. Some editing of the recording may be included in the service, such as removal of blank spaces or the addition of a customised script at the start of the recording.

When the customer books an Encore recording, they are provided with a Conference ID (Encore Replay Number) that is used to access the recording. The recording is generally available for access within 2 hours of the conference being held.

Conference recordings held on the Encore server at the expiry of the storage period agreed with Telecom will be moved to an archive area for a further 30 days. Within that time the convenor may elect to reactivate access; past that the conference recording may be deleted.

All recording and replay of scheduled conferences will be carried out at the direction of the conference convenor. The service does not include any equipment or software necessary for the customer to access the Audio Conference and/or Encore Service. This includes but is not limited to telephones, mobile phones, headsets, etc. It is the customer's responsibility to acquire and maintain any such equipment or software, and Telecom will not be responsible for inferior sound quality or access capabilities caused by faults in those items.

Likewise, Telecom will not be responsible for the lack of, or quality of, connections to the Encore service, for replay of conference recordings, to the extent they are made over other parties' communications networks.

## TERMS OF USE

### Terms and Conditions

1. The provision of our Encore service to you ("**the Service**") is governed by both:
  - (a) these Terms of Use; and
  - (b) our [Standard Business Terms and Conditions](#) (for business and other non-residential customers), or [Standard Residential Terms and Conditions](#) (for residential customers), or any separate written agreement you have with us covering the provision of the Service, (together "**the Terms and Conditions**").
2. Please read these Terms of Use carefully. By using the Service, you acknowledge that you have read and understood these Terms of Use, and agree to be bound by them.

### Interpretation

3. In these Terms of Use, by:
  - (a) "**Telecom**", "**we**", "**us**" or "**our**", we mean Telecom New Zealand Limited and its related companies (as that term is defined in the Companies Act 1993);
  - (b) "**you**", we mean you, the customer agreeing to take the Service and, where the context requires, any other person who you allow to use our Audio Conferencing service;
  - (c) "**your Account**", we mean the conference ID which we give you to use in conjunction with the Service.
4. If there is any conflict between a term contained in these Terms of Use, and a term in our Standard Terms or any other written agreement you have with us, these Terms of Use will prevail.

### Service Description

5. For a description of the Service see the [Encore service description](#) . This contains details of your and our responsibilities in relation to the Service (including limitations of the Service).

### Retention of Data

6. You agree that Telecom may establish limits concerning use of the Service including, without limitation, the maximum number of days that material will be retained. If we believe that these space restraints or limits are, or will be, compromised, then we may delete any recording or data (together "material") stored under your Account.
7. If we deem it necessary to delete any material, we are not required to notify you, although we will endeavour to give you reasonable prior notice where it is possible to do so. Upon completion of the storage period that you nominate and agree with us, we will archive your recording for a further 30 days. We also reserve the right to

delete all relevant material, without further notice, after the expiry of that 30 day period. You agree that Telecom has no responsibility or liability for the deletion, corruption or failure to store any material maintained or transmitted in connection with the Service. You acknowledge that the features, parameters (for example, the duration period of storage available to you) or existence of any part of the Service may change at any time.

#### **Your Recording**

8. Access to recordings provided as part of the Service is made via a conference ID (Encore Replay Number). You are responsible for maintaining the confidentiality and security of your conference ID and for restricting access to your recording. A breach of these Terms of Use by a third party who is using the Service via your conference ID will be considered a breach by you as well as a breach by the third party concerned, whether or not you had knowledge or gave consent to the activity in question. It is your responsibility to make sure everyone else you are responsible for, or allow to use our Audio Conferencing service, agrees to be bound by and complies with these Terms of Use.

#### **Use of Personal Information**

9. When using the Service, participants may be required to provide personal information as defined in the Privacy Act 1993 to us and/or to our suppliers for the purposes of providing the Service. If we obtain personal information about you, it will be collected, stored and used in accordance with the Terms and Conditions, and in strict compliance with New Zealand privacy laws. This information will only be retained for as long as is necessary for us and/or our suppliers to provide the Service and maintain adequate billing records, and otherwise for the purposes set out in the Terms and Conditions, or as permitted by law.
10. By using the Service, you agree that your conversations may be recorded for the purposes of the Service and personal information about participants may be collected. You agree that our employees and suppliers may access your recording and monitor the communications made via your Account on a case-by-case basis to maintain and support our systems and to safeguard the security and integrity of the Service.
11. Recording someone without their consent may amount to a breach of applicable privacy laws. You must obtain the prior consent of all conference participants to being recorded as part of the Service. Telecom will not be liable for any breach by you of the Privacy Act 1993.
12. Personal information about conference participants which is generated or collected in relation to your use of the Service may be stored and processed in New Zealand or any other country in which we or our suppliers maintain facilities, and by using the Service, you consent to any such transfer or information outside of your country. Details of relevant suppliers and countries can be provided on request.
13. We may disclose information about you or your use of the Service without your permission if we have a good faith belief that such action is necessary to:
  - (a) conform to legal requirements (including, without limitation, requirements in accordance with any applicable law, regulation or government request) or comply with legal process, or to help maintain the law;
  - (b) protect our rights or property or those of our suppliers;
  - (c) enforce the Terms and Conditions; and
  - (d) act to protect the interests of our, or our related companies', suppliers, or if any of the exceptions in the Privacy Act 1993 apply.
14. You may ask to see any information we hold about you and we will provide it as long as we can readily retrieve it. You may also ask us to correct any incorrect information we hold about you. We may charge you for the reasonable costs of retrieving and providing this information.
15. Your use of the Service shows your unconditional consent to our collection, use and disclosure of personal information in the manner set out in the Terms and Conditions.

#### **Security Breaches**

16. Customer details and recorded audio conferences are held on a server that is secured by an authentication scheme. You acknowledge and agree that we and our suppliers cannot prevent, and therefore cannot be responsible or liable for, any security breaches. We cannot and do not warrant or guarantee that the server used to provide the Service is secure and that third parties will not intercept, interfere with or access in an unauthorised manner, information or communications exchanged as part of the Service.

#### **Use of Service**

17. You are solely responsible for the content of all communications made under your Account, and use the Service at your own risk. You may authorise us or our suppliers to edit the conference recording to your specifications. If so, we and our suppliers take no responsibility for the edited recording, except where we or our suppliers have been negligent carrying out the editing.

18. You must only use the Service for lawful purposes. We may without further notice withhold, suspend, restrict or terminate your Account or your access to the Service, or any material stored in our systems or transmitted via our servers, if you or anyone else accessing the Service via your Account does not comply with these Terms of Use.
19. We may also require you to edit or delete any material or communication which we consider to be unauthorised, misleading, objectionable, restricted, defamatory, illegal, inappropriate or contrary to these Terms of Use. If you do not do so to our satisfaction, we may edit, delete, block or disconnect that material or communications ourselves.
20. You agree to indemnify, defend and hold harmless Telecom, and each of its officers, directors, employees, contractors and agents, from and against all claims, liability, damages and costs (including, but not limited to, legal fees) arising from your breach of these Terms of Use.

**Exclusion and Limitation of Our Liability**

21. These Terms of Use contain exclusions of our liability to you, in particular in relation to security breaches and unauthorised access to or use of your Account. The exclusions and limitations on our liability (or the liability of anyone else involved in providing our services) which are set out in our Standard Terms, or in any other written agreement you have with us, also apply, and you should read them carefully.
22. These exclusions and limitations do not limit any rights you may have under the Consumer Guarantees Act 1993.

**Applicable Law**

23. These Terms of Use will be governed by and construed in accordance with the laws of New Zealand.